

Wisconsin Department of Regulation & Licensing

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DIVISION OF PROFESSIONAL CREDENTIAL PROCESSING

WISCONSIN CEMETERY REGULATIONS

1. PECUNIARY (FOR-PROFIT) CEMETERIES

A. WHAT CEMETERIES HAVE TO APPLY FOR LICENSURE WITH THE DEPARTMENT OF REGULATION AND LICENSING?

Every cemetery that sells a total of 20 or more cemetery lots or mausoleum spaces during a calendar year, or is 5 acres or more in size or has \$100,000 or more in pre-need trust accounts for a cemetery must register with the Department UNLESS the cemetery authority is of a cemetery organized, maintained and operated by a town, village, city, church, synagogue or mosque, religious, fraternal or benevolent society or incorporated college of a religious order.

B. WHICH INDIVIDUALS MUST BECOME LICENSED WITH THE DEPARTMENT OF REGULATION AND LICENSING?

Every individual who sells or solicits the sale of, or who expects to sell or solicit the sale of, a total of 20 or more cemetery lots or mausoleum spaces during a calendar year must become licensed, with the Department.

Furthermore, every individual and cemetery authority who sells or solicits the sale of cemetery merchandise or an undeveloped space under a pre-need sales contract and, if the individual is employed by or acting as an agent for a cemetery authority or any other person, that cemetery or other person is required to be registered with the Department as a pre-need seller.

However, if an individual registers as a pre-need seller and only sells or solicits the sale of cemetery merchandise or undeveloped spaces under pre-need sales contracts, that individual does not also have to be registered as a cemetery salesperson.

C. MONEY: HOW TO INVEST IT / HOW TO WITHDRAW IT / HOW TO SPEND IT

- There are three ways in which to invest your funds:
 - 1) Deposit them with a financial institution in Wisconsin.
 - 2) Deposit them with the treasurer of the county or city in which the cemetery is located.
 - 3) Deposit them in an investment approved by the Department, if the care funds are segregated and invested from all moneys held by the cemetery authority. These so-called "alternative investments" only apply to care funds for cemetery lots. Care funds for mausoleum spaces and pre-need trust funds must be invested as in #1 and #2.
- The income from the investment of a care fund may be used only to maintain the cemetery lots and grounds UNLESS the amount of income exceeds the amount necessary to properly maintain the cemetery lots or grounds. The excess amount may then be used to maintain any portion of the cemetery, including mausoleums.

NOTE: If the care funds are not being properly segregated as is required under sec. 157.11, Stats., or otherwise not properly invested, the Department may require the cemetery authority to deposit those care funds with a financial institution for investment. Furthermore, the manner in which the care funds are invested may not permit the cemetery authority to withdraw the care funds' principal amount.

- The following would likewise apply:
- The cemetery must deposit 15% of each payment of principal for a cemetery lot into a care fund. The total amount deposited must equal 15% of the total amount of all payments of principal that have been received but not less than \$25.

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- The cemetery must deposit 25% of each payment of principal received from the sale of a mausoleum space into the care fund, until the care fund equals 25% of the cost of constructing the mausoleum.
- Cemeteries that sell cemetery merchandise and/or undeveloped mausoleum spaces are also subject to the pre-need trust fund depositing requirements under sec. 440.92, Stats.

D. USE OF PROCEEDS

- Proceeds from the sale of cemetery lots and mausoleum spaces need not be applied exclusively to the care and improvement of the cemetery, avenues leading to the cemetery, or the operating expenses (as was the case before 11/1/91).

E. WHERE TO FILE ANNUAL REPORTS

- A licensed cemetery is required to file an annual report with the Department of Regulation and Licensing. The annual filing fee is \$40.
- However, if your annual operating budget for the cemetery is \$2,500 or less, you are not required to file a report. While the term “annual operating budget” is not defined in either the statutes or rules, a reasonable definition would include those expenses associated with operating and maintaining the cemetery including, but not limited to: salaries, gasoline, repairs, equipment costs, etc.

F. CONVEYANCES

- Licensed cemeteries are required to notify the Department in writing before they sell or encumber, any cemetery land. The Department may object to a sale or encumbrance only if it determines that the cemetery authority will not be financially solvent or that the rights and interests of the owners of cemetery lots and mausoleum spaces will not be adequately protected if the sale or encumbrance occurs.

G. ACREAGE REQUIREMENTS

- The Wisconsin statutes require that all cemeteries dedicated on or after November 1, 1991, consist of at least 20 contiguous acres. Therefore, before an association can create a cemetery that is less than 20 acres, it must first obtain permission to do so from the municipality in which the cemetery is located via an ordinance. The same would hold true for creating a mausoleum in a cemetery that is less than 20 acres.

MUNICIPAL CEMETERIES

NOT REQUIRED TO REGISTER WITH THE DEPARTMENT OF REGULATION AND LICENSING

- Municipal cemeteries are not required to be licensed with the Department if they sell cemetery lots or mausoleum spaces. However, they will have to register as cemetery pre-need sellers if they are organized or conducted for pecuniary profit; otherwise, they do not.

RELIGIOUS CEMETERIES

A. FILING ANNUAL CERTIFICATIONS WITH DEPARTMENT OF REGULATION AND LICENSING

- Religious cemeteries are not required to be licensed with the Department as a cemetery authority. Moreover, religious cemeteries which sell cemetery merchandise or undeveloped mausoleum spaces are not required to register with the Department as pre-need sellers so long as they have filed an annual certification with the Department indicating that they are a cemetery affiliated with a religious society.

B. MONEY: HOW TO INVEST IT / HOW TO WITHDRAW IT / HOW TO SPEND IT

- Religious cemeteries must deposit 15% of each payment of principal for a cemetery lot into a care fund. The total amount deposited must equal 15% of the total amount of all payments of principal that have been received but not less than \$25.
- Religious cemeteries must deposit 25% of each payment of principal and received from the sale of a mausoleum space into the care fund, until the care fund equals 25% of the cost of constructing the mausoleum.

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- Religious cemeteries who sell cemetery merchandise and/or undeveloped mausoleum spaces are also subject to the pre-need trust fund depositing requirements under sec. 440.92, Stats.
- It is totally within the discretion of the religious association as to where those funds are deposited.
- A religious society can withdraw the principal in its care fund at any time; Departmental approval is not required.

C. USE OF PROCEEDS

- Proceeds from the sale of cemetery lots and mausoleum spaces need not be applied exclusively to the care and improvement of the cemetery, avenues leading to the cemetery, or the operating expenses (as was the case before 11/1/91).

D. FILING ANNUAL REPORTS

- Religious societies are required to file an annual certification with the Department, but no filing fee is required. This certification form simply asks the cemetery authority to state whether it fully or substantially complied with several sections of the Wisconsin statutes, primarily those relating to care funds and pre-need trust funds. The form must be filed no later than March 1 of each year.

E. REPORTING EXEMPTIONS

- Religious cemeteries are not required to file an annual report with the Department; however, they are required to file an annual certification with the Department as indicated above.

F. CONVEYANCES

- Should a religious association wish to sell or encumber its cemetery to a third party, no Departmental approval is required.

G. ACREAGE REQUIREMENTS

- The Wisconsin statutes require that all cemeteries dedicated on or after November 1, 1991, consist of at least 20 contiguous acres. However, there are two exceptions to that. First, if the religious association is responsible for all liabilities of the cemetery, and the total acreage of all other cemeteries owned by the religious association exceeds 20 acres, then the new cemetery can be less than 20 acres. The second option is for the association to request the municipality in which the cemetery is located to enact an ordinance permitting the creation of a new cemetery with less than 20 acres. The religious association would likewise have to get a municipal ordinance if it chose to create a mausoleum in a cemetery that contained less than 20 acres of land.